

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jessica Kulig	Team: Team # 5	CCRB Case #: 201111900	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/15/2011 5:38 PM	Location of Incident: Outside § 87(2)(b)	Precinct: 23	18 Mo. SOL 3/15/2013	EO SOL 3/15/2013	
Date/Time CV Reported Thu, 09/15/2011 6:54 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 09/15/2011 6:54 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Merani Rotte	03185	938498	BX CT
2. POM Michael Cintron	22065	943089	023 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Merani Rotte	Abuse: PO Merani Rotte stopped § 87(2)(b)	§ 87(2)(b)
B.POM Michael Cintron	Abuse: PO Michael Cintron stopped § 87(2)(b)	§ 87(2)(b)
C.SGT Merani Rotte	Abuse: PO Merani Rotte searched § 87(2)(b)	§ 87(2)(b)
D.SGT Merani Rotte	Discourtesy: PO Merani Rotte spoke rudely to § 87(2)(b)	§ 87(2)(b)
E.POM Michael Cintron	Abuse: PO Michael Cintron searched the car in which § 87(2)(b) was an occupant.	§ 87(2)(b)
F.SGT Merani Rotte	Abuse: PO Merani Rotte refused to provide his name to § 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed the following complaint with the CCRB on September 15, 2011 via the call processing system.

At approximately 5:38 p.m. on September 15, 2011, § 87(2)(b) was sitting in the passenger seat of a vehicle with her two friends, § 87(2)(b) and § 87(2)(b) when she was stopped by Police Officer Merani Rotte and Police Officer Michael Cintron in the vicinity of § 87(2)(b) in Manhattan. § 87(2)(b) was issued a summons for § 87(2)(b). The following allegations resulted from her interaction with PO Rotte and PO Cintron:

- **Allegation A – Abuse of Authority: PO Merani Rotte stopped** § 87(2)(b) § 87(2)(g)
- **Allegation B – Abuse of Authority: PO Michael Cintron stopped** § 87(2)(b) § 87(2)(g)
- **Allegation C – Abuse of Authority: PO Merani Rotte searched** § 87(2)(b) § 87(2)(g)
- **Allegation D – Discourtesy: PO Merani Rotte spoke rudely to** § 87(2)(b) § 87(2)(g)
- **Allegation E– Abuse of Authority: PO Michael Cintron searched the car in which** § 87(2)(b) **was an occupant.** § 87(2)(g)
- **Allegation F – Abuse of Authority: PO Merani Rotte refused to provide his name and/or shield number** § 87(2)(g)
- § 87(2)(g), § 87(4-b)

This case was originally assigned to Investigator Saraswat. It was reassigned to Investigator Martin on November 23, 2011. It was reassigned to Investigator Kulig on August 8, 2012. The case was submitted for mediation and returned.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) a 5'3" tall, 188 lb. Hispanic woman with black hair and brown eyes, was § 87(2)(b)

years old at the time of the incident. § 87(2)(b)

Testimony

§ 87(2)(b) made statements pertaining to the incident on September 15, 2011 via the CCRB Call Processing System (encl. 3A), over the telephone on September 28, 2011 (encl. 5A), and in person at the CCRB on October 26, 2011 (encl. 5B-5G). § 87(2)(g)

At approximately 5:38 p.m. on September 15, 2011, § 87(2)(b) was walking home from the store after buying a sandwich, a Gatorade, and some laundry detergent. On her way home, § 87(2)(b) saw her friends, § 87(2)(b) and § 87(2)(b) sitting inside of a parked vehicle in front of her house, which is located at § 87(2)(b) in Manhattan. § 87(2)(b) got into the front passenger seat of the car. § 87(2)(b) sat in the driver seat, and § 87(2)(b) sat in the rear middle seat. The group conversed while § 87(2)(b) ate the food she had just purchased.

After several minutes, § 87(2)(b) noticed through the rearview mirror two officers in plain clothes, identified by the investigation as PO Merani Rotte and PO Michael Cintron, walking towards the car. § 87(2)(b) rolled the car window down. PO Rotte approached the passenger side of the car, and PO Cintron went to the driver side. Before PO Rotte said anything, § 87(2)(b) said, "How can I help you officer?" § 87(2)(b) stated that she knew PO Rotte and PO Cintron were officers because she could see their radios and the outline of their bulletproof vests underneath their shirts. PO Rotte replied, "Why are you yelling?" § 87(2)(b) told PO Rotte that she was not yelling and explained to him that she was eating and talking. PO Rotte then instructed her to get out of the car. PO Cintron also instructed § 87(2)(b) and § 87(2)(b) to get out of the car.

In her CCRB interview, § 87(2)(b) stated that PO Rotte then instructed her to empty her pockets and asked everyone to hand over their identification. In her phone statement, § 87(2)(b) stated that she began emptying her pockets only after PO Rotte threatened to arrest her. She indicated that PO Rotte did not instruct her to empty her pockets but that she did so on her own. She asked § 87(2)(b) to take her stuff upstairs.

§ 87(2)(b) provided her license and her work ID to PO Rotte. § 87(2)(b) also provided his ID to PO Rotte. PO Cintron took § 87(2)(b)'s ID. Because she was speaking loudly, PO Rotte told § 87(2)(b) that she needed to learn how to respect officers. § 87(2)(b) said that her voice is naturally loud and asked him why he had instructed her to get out of the car. PO Rotte told § 87(2)(b) that he did not have to answer her because he was a police officer.

PO Cintron then entered the car and searched the back seat and the glove compartment. § 87(2)(b) asked PO Rotte why they were searching the vehicle, and he replied that he could do anything he wanted because he is a cop. § 87(2)(b) told PO Rotte that he was violating her rights. They continued to converse until PO Rotte again told § 87(2)(b) that she didn't have any "fucking respect" for the police.

At this time, PO Rotte used his radio to request a check of § 87(2)(b)'s ID. PO Rotte then radioed for another officer to respond. Three unidentified officers pulled up in a marked NYPD van. § 87(2)(b) did not interact with them.

PO Rotte told § 87(2)(b) that he was going to arrest her for disorderly conduct. § 87(2)(b) remarked that she had just asked him why she was stopped. § 87(2)(b) requested PO Rotte's name. PO Rotte responded that he did not have to give it to her but that his name was "Ruthless." § 87(2)(b) then said, "Well, I'm § 87(2)(b) and I'm Ms. Bitchiness." § 87(2)(b) then told PO Rotte to just give her the summons or lock her up. PO Rotte walked to the van and returned with a summons for § 87(2)(b). § 87(2)(b) then walked away with the summons.

Witness: § 87(2)(b)

- § 87(2)(b)

Testimony

§ 87(2)(b) provided a brief statement with regard to the incident over the telephone on October 24, 2011 (encl. 6A). § 87(2)(g)

At approximately 5:38 p.m. on September 15, 2011 in the vicinity of § 87(2)(b) in Manhattan, § 87(2)(b) was sitting with § 87(2)(b) and § 87(2)(b) in a parked Buick Regal, when PO Rotte and PO Cintron approached the vehicle. § 87(2)(b) was seated in the driver seat, § 87(2)(b) was in the passenger seat, and § 87(2)(b) was in the back seat. PO Rotte told all of them to get out of the vehicle and spoke with § 87(2)(b) in a rude fashion. § 87(2)(b) could not clearly remember the specifics of the conversation. Eventually, PO Rotte issued § 87(2)(b) a summons.

Witness: § 87(2)(b)

Testimony

§ 87(2)(b) provided a statement pertaining to the incident over the telephone on December 2, 2011 (encl. 7A). § 87(2)(g)

At approximately 5:38 p.m. on September 15, 2011 in the vicinity of § 87(2)(b) in Manhattan, § 87(2)(b) was sitting inside a car with § 87(2)(b) and § 87(2)(b) eating chicken sandwiches and drinking Gatorade. PO Rotte and PO Cintron approached and asked them to exit the vehicle. The group complied.

§ 87(2)(b) speculated that the officers did not like how § 87(2)(b) was talking to them. He denied that § 87(2)(b) and the officers were arguing and stated that § 87(2)(b) simply said, "How are you doing officer?"

The officers asked everyone for their identification, and they complied. One of the officers asked § 87(2)(b) what he had in his cup, and he said that he was drinking Gatorade. The officer then smelled the cup.

§ 87(2)(b) corroborated that the officers threatened to arrest § 87(2)(b). Neither § 87(2)(b) nor § 87(2)(b) were issued summonses or arrested.

Attempts to Contact Civilians

§ 87(2)(b) and § 87(2)(b) both provided statements over the telephone but stated that they were not interested in pursuing the investigation further. No other witnesses were identified.

NYPD Statements:

Subject Officer: PO MERANI ROTTE

- *PO Rotte, a 6'0" tall, 205 lb. Hispanic male with blonde hair and blue eyes, was § 87(2)(b) old at the time of the incident.*
- *PO Rotte was assigned to SNEU with PO Michael Cintron, where he was working in plain clothes, on foot between the hours of 6:30 a.m. and 3:14 p.m.*

Memo Book (encl. 8A-8C)

At 5:38 p.m., a summons was served at § 87(2)(b) for § 87(2)(b).

Summons (encl. 8D)

PO Rotte issued summons # § 87(2)(b) to § 87(2)(b) at 5:38 p.m. on September 15, 2011 for § 87(2)(b).

Testimony

PO Merani Rotte was interviewed at the CCRB on September 4, 2012 (encl. 8G-8H).

At approximately 5:38 p.m. on September 15, 2011 in the vicinity of § 87(2)(b) Manhattan, PO Rotte was walking west on the sidewalk on § 87(2)(b) with PO Michael Cintron when he passed by a vehicle in which two individuals, seated in the driver and passenger seats, were drinking beverages. PO Rotte stated that when he looked in their direction, one of the individuals, who he later identified as § 87(2)(b) yelled, "Why are you looking in this direction?" PO Rotte later stated that he could not recall specifically what § 87(2)(b) said but that she was heckling him.

PO Rotte walked back to the vehicle and said, "You guys are drinking, and you're yelling at me." He later stated that he did not know exactly what he said when he first approached the car. PO Rotte stated that the beverages were in the center console. He did not immediately know what type of beverages they were, but he stated that as he got closer, he could smell alcohol. § 87(2)(b) did not acknowledge that she was drinking alcohol. PO Rotte did not issue any summonses for the alcohol, and he did not take any further actions with regard to the alcohol.

PO Rotte stated that § 87(2)(b) became "irate" and started cursing at him and being "abusive." He also stated that § 87(2)(b) started "challenging him." PO Rotte did not specify what § 87(2)(b) said to him, but he stated that she was saying, "Fuck this, fuck that." A couple people stopped to watch the interaction.

PO Cintron stood next to PO Rotte on the sidewalk as PO Rotte engaged in conversation with § 87(2)(b). He did not recall if PO Cintron said anything to § 87(2)(b). PO Rotte stated that the other individual in the car was courteous and did not give him a hard time.

At one point, § 87(2)(b) stepped out of the vehicle on her own. PO Rotte later stated that he did not know if he asked her to get out of the vehicle or if she got out on her own, but he did not recall asking § 87(2)(b) to get out of the car. He did not know if his partner asked her to get out of the car and was unsure if the individual in the driver seat exited as well.

Once § 87(2)(b) was out of the vehicle, PO Rotte asked her for identification. She gave it to him right away. PO Rotte stated that he told § 87(2)(b) she should show more respect for police officers because she was being loud and disrespectful. PO Rotte stated that he did not raise his voice or remember engaging in an argument with her. PO Rotte denied telling § 87(2)(b) to "shut the fuck up." He did not tell her that she didn't have "any fucking respect for the police." He denied using profanity and stated that PO Cintron did not use profanity. He did not recall what the driver of the vehicle was doing at the time.

PO Rotte stated that he did not remember searching § 87(2)(b)'s vehicle and that he did not see his partner search the car either. PO Rotte did not search § 87(2)(b) or ask her to remove anything from her pockets.

Eventually, PO Rotte gave § 87(2)(b) a summons for § 87(2)(b). PO Rotte stated that § 87(2)(b) continued to curse at him loudly, which caused people to look. PO Rotte never told § 87(2)(b) he was going to arrest her for disorderly conduct, and he did not know if his

partner said this to § 87(2)(b) PO Rotte stated that he provided § 87(2)(b) with his name when she asked.

Subject Officer: PO MICHAEL CINTRON

- *PO Cintron, a 6'0" tall, 215 lb. Hispanic male with brown eyes and black hair, was § 87(2)(b) old at the time of the incident.*
- *PO Cintron worked between 2:00 p.m. and 10:35 p.m. He was assigned to the observation post of a SNEU team with PO Merani Rotte. He was wearing plain clothes and was working on foot.*

Memo Book (encl. 9A-9B)

PO Cintron did not have any entries in his memo book regarding the incident.

Testimony

PO Cintron was interviewed at the CCRB on October 24, 2012 (encl. 9C-9D).

At approximately 5:38 p.m. on September 15, 2011 in the vicinity of § 87(2)(b) in Manhattan, PO Cintron and PO Rotte were walking on the sidewalk when they approached the vehicle where § 87(2)(b) was sitting with two other individuals, identified by the investigation as § 87(2)(b) and § 87(2)(b). PO Cintron observed a beer can in the vehicle, which was being passed from the driver to the back passenger in plain view. He could not recall the brand of the beer. PO Rotte indicated to PO Cintron that he had also made this observation. He eventually smelled the beer can to confirm that it contained alcohol.

PO Cintron went around to the driver side of the vehicle and asked § 87(2)(b) for his driver's license, which he handed over willingly. PO Cintron heard PO Rotte attempting to explain to § 87(2)(b) why they had stopped her. He also recalled that § 87(2)(b) was being uncooperative and did not hand over her identification to PO Rotte until she was asked at least three times.

PO Cintron stated that he asked the driver of the vehicle basic questions, such as where he lived and what was his relationship with the other individuals in the car. PO Cintron did not recall hearing PO Rotte's conversation with § 87(2)(b).

PO Cintron stated that doors to the vehicle were open while he and PO Rotte were conversing with the individuals in the car. § 87(2)(b) appeared aggressive at this point. She adamantly stated that she did not have to provide identification, that she knew people who were on the job, and that she knew her rights.

At some point, all of the individuals in the vehicle were ordered to exit the car. PO Cintron did not recall if he or his partner issued this order, but he stated that § 87(2)(b)'s aggressiveness indicated to them that they were trying to hide something. They exited the car on their own.

PO Cintron stood with § 87(2)(b) and § 87(2)(b) on the sidewalk while PO Rotte continued to deal with § 87(2)(b). PO Cintron stated that his partner maintained professionalism while he interacted with § 87(2)(b). PO Cintron eventually decided not to issue summonses to § 87(2)(b) or § 87(2)(b) for the alcohol. He stated that they were compliant and that he did not want to issue a summons to the driver because he was an "old guy."

After they exited the vehicle, PO Cintron entered the car and searched it on his own. He stated that he initially entered the car to retrieve the beer can, which was located in the back passenger seat, and then searched the immediate area of the vehicle to make sure there was not anything "dangerous." He stated that he was looking for weapons or anything else "unsafe" since § 87(2)(b) was being aggressive. PO Cintron looked in the two front seats of the vehicle and then searched the passenger side back seat. He denied searching any compartments or closed

containers. He did not recall if he looked underneath the seats. PO Cintron did not recover any contraband.

PO Cintron did not recall hearing his partner say to § 87(2)(b) "You have no fucking respect for the police." He did not hear his partner use profanity or argue with § 87(2)(b) PO Cintron denied using profanity.

PO Cintron stated that a crowd of less than ten people began to gather around them during the incident. At some point, PO Cintron and PO Rotte had called for a van to run § 87(2)(b)'s identification. § 87(2)(b) was eventually issued a summons for § 87(2)(a) 160.50. Once they had issued the summons, PO Cintron and PO Rotte left in the van. PO Cintron did not recall who else was in the van.

NYPD Documents

Roll Call (encl. 11A-11M)

The Tour 3 Roll Call for September 15, 2011 confirms that PO Rotte was assigned to SNEU at the time of the incident. PO Cintron was originally assigned to Patrol Sectors E and H, but his name was crossed out.

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of January 23, 2013, more than a year after the 90-day filing deadline, with regard to the incident.

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History (encl. 3A)

- This is the first CCRB complaint filed by § 87(2)(b)

Subject Officers CCRB History

- PO Merani Rotte has been a member of the service for seven years and there are no substantiated CCRB allegations against him (encl. 2A).
- PO Michael Cintron has been a member of the service for six years and there are no substantiated CCRB allegations against him. (encl. 2B).

Conclusion

Identification of Subject Officers

- On January 5, 2012, § 87(2)(b) identified PO Merani Rotte from a photo array (encl. 5H-5J). PO Rotte was also listed on § 87(2)(b)'s summons and confirmed his involvement in the incident during his CCRB interview.
- PO Rotte identified PO Michael Cintron as his partner on the day of the incident. PO Cintron confirmed his involvement during his CCRB interview.

Allegations Not Pleaded

Allegation C: Abuse of Authority – PO Merani Rotte searched § 87(2)(b)

In her CCRB statement, § 87(2)(b) stated that PO Rotte instructed § 87(2)(b) to get out of the vehicle and empty her pockets. In her phone statement, however, § 87(2)(b) stated that she began emptying her pockets in preparation for her arrest. She did not indicate that PO Rotte instructed her to empty her pockets.

PO Rotte denied asking § 87(2)(b) to empty her pockets.

§ 87(2)(g)

Allegation D: Discourtesy – PO Merani Rotte spoke rudely to § 87(2)(b)

§ 87(2)(b) stated that PO Rotte told her that she did not have any “fucking respect” for the police.

PO Rotte stated that at some point he told § 87(2)(b) that she should show more respect for the police. He denied using profanity during the incident. PO Cintron did not recall PO Rotte ever using profanity. § 87(2)(b) stated that PO Rotte spoke in a “rude fashion” to § 87(2)(b) but did not clarify exactly what PO Rotte said.

§ 87(2)(g)

Allegation E: Abuse of Authority – PO Michael Cintron searched the car in which § 87(2)(b) was an occupant.

It is undisputed that PO Cintron entered the car in which § 87(2)(b) was sitting and searched two front seats of the vehicle along with the back passenger seat.

§ 87(2)(b) alleged that, in addition to the seating area, PO Cintron also searched the glove compartment. PO Cintron denied searching the glove compartment. Neither PO Rotte nor any other civilian witnesses provided information concerning PO Cintron’s actions inside the vehicle.

§ 87(2)(g)

PO Cintron stated that he searched the vehicle for two reasons: 1) he observed two passengers passing an open beer can around inside the vehicle, and; 2) he was checking to make sure that the vehicle did not have weapons.

§ 87(2)(g). PO Rotte, who approached the vehicle with PO Cintron, never saw a beer can. § 87(2)(b) and § 87(2)(b) both stated they were drinking Gatorade. PO Cintron neither made any arrests or issued any summonses for open container or alcohol offenses during the incident. Finally, PO Cintron’s search of the vehicle, conducted moments after his alleged observation of the beer can, did not turn up any evidence indicating an open container of alcohol had been present. § 87(2)(g)

A vehicle may be searched without a warrant when the occupant has been arrested and there is probable cause to believe that the vehicle contains evidence of the crime, contraband, a weapon, or some means of escape. People v. Castro-Gonzalez, 801 N.Y.S. 2d 702 (2005 – Sup. Ct. Cty) (encl. 1N-1O). An officer may perform a limited search for weapons when the objective circumstances of the vehicle stop provide a basis for the officer to fear for his own safety. People v. Torres, 74 N.Y.2d 224 (1989) (encl. 1S-1Y). Verbal protests of police behavior do not give rise

to reasonable suspicion that a person possesses a weapon. People v. Square, 872 N.Y.S.2d 693 (2008 – Crim. Ct. NY Cty) (encl. 1Z-1CC).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation F: Abuse of Authority – PO Merani Rotte refused to provide his name and/or shield number.

§ 87(2)(b) alleged that when she requested PO Rotte’s name, he told her that his name was “Ruthless.”

PO Rotte stated that he provided his name to § 87(2)(b) when she requested it from him.

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____

Title/Signature

Print

Date